

REMARKS

Claims 1-13 stand rejected under 35 U.S.C 101 as claiming the same invention as that of claims 1-13 of prior U.S. Patent No. 6,072,431. The rejection is respectfully traversed for at least the foregoing reasons discussed below.

"A reliable test for double patenting under 35 U.S.C. 101 is whether a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent. In re Vogel, 422 F.2d438, 164 USPQ 619 (CCPA 1970)." – MPEP 804

The independent claims 1, 7 and 11 in the prior U.S. Patent state that (1) "the positioning data is stored in a first location specific to the real time process" and (2) "the user application code is configured to access the positioning data in a second location specific to the user application code". However, the corresponding claims in the present application do not include such location specifications as described in the prior U.S patent.

Therefore, it is possible that a claim in the present application could be literally infringed without literally infringing a corresponding claim in the prior U.S. patent. Consequently, the present rejection under 35 U.S.C. 101 is flawed and should be removed.

In light of the above, the rejections under 35 U.S.C. 101 has been overcome, and withdrawal of these rejections is therefore respectfully requested.

If there are any additional fees associated with this communication, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Jaina Chua at (408) 947 8200 ext. 213.

Respectfully submitted,

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